



State of Ohio Environmental Protection Agency
Southwest District

401 East Fifth Street
Dayton, Ohio 45402-2911

TELE: (937) 285-6357
FAX: (937) 285-6249

January 6, 2004

Robert Warther, Manager
U.S. DOE Ohio Field Office
175 Tri County Parkway
Springdale, Ohio 45246

Dear Mr. Warther:

This is in response to your letter dated December 15. My purpose is to briefly restate Ohio's position on DOE's Risk Based End State (RBES) approach at Fernald and also provide clarification on a couple of points in your letter. Since we seemingly have different perspectives on what has transpired on this project, my primary focus is on where we go from here.

In terms of our position, let me offer the following background. When I toured the Fernald site in August, 2003, I was amazed at the progress that was occurring on the cleanup. After being involved with this site since the late 1980's, it was a pleasure seeing the significant cleanup efforts that were underway. To date almost 70% of the site is cleaned up! My staff informs me that even more progress has occurred since my August tour. These successful results are the product of DOE building successful working relationships with contractors, regulators, and stakeholders over at least the past ten years. During this process all parties were educated in the technical, economic and political issues associated with the cleanup challenges at Fernald and all parties have made compromises in developing the cleanup plans that are currently being implemented.

I see Ohio's position as relatively straightforward. At this late point in the cleanup, it just does not make sense for DOE, the regulators and stakeholders to spend valuable time and resources to do additional studies on alternatives for the Fernald cleanup that, in reality, have no time to be implemented. The time for studies has passed and now is the time to focus on meeting DOE's stated 2006 goal to safely complete the cleanup.

I did want to address a couple of points in your letter. One was your perspective that I was not fully aware of the RBES initiative. Let me assure you, Ohio EPA staff involved with the Fernald cleanup has kept me fully informed on this issue. While we were aware that work was ongoing on this project, our concerns about the level of consultation, cooperation and deliberation still stand. You do correctly point out that I am very familiar with the RBES policy and guidance development through my national involvement with the Environmental Management Advisory Board (EMAB), the State and Tribal Government Working Group (STGWG), and the National Governors Association (NGA). In that capacity I have



Robert Warther, Manager
U.S. DOE Ohio Field Office
January 6, 2004
Page 2

provided input on numerous occasions on many related issues, including how difficult it would be to superimpose the RBES process on sites like Rocky Flats, Fernald and Mound which are nearing cleanup completion.

Further, I have pushed hard at the national level for DOE to work collaboratively with regulators, local governments and the public and to exercise leadership in determining which cleanup plan changes to actually put forth. I even provided a list of factors which DOE should consider in making that decision. To DOE's credit, that list was made a part of the Draft RBES Implementation Plan. While I understand the goal of the RBES exercise, I have repeatedly voiced concerns about the potential damage that this process could have on working relationships at the site level and on the forward progress that DOE, the Congress, the regulators and the public have been successfully striving to achieve. I believe this is especially true at sites like Fernald where we are nearing the finish line.

I appreciate your comments that the document is just a draft, and even when final, does not constitute a change in clean-up requirements. We certainly concur. However, in that the proposals have received a negative response from US EPA, Ohio EPA and the public, implementation within the 2006 time frame is unrealistic. I hope there is an appreciation within DOE that the RBES "opportunities" presented are significant departures from the decisions that were made through a robust and collaborative process and that any change could only come out of a similar process. As stated in your RBES report, a step that you will need to take is to "arrive at the shortlist of implementable ideas." Given timing, reaction of the regulators and the public and the daunting task of revisiting hard-fought compromises, we believe that none of the RBES opportunities should be carried forward to the "shortlist". Since we strongly believe this to be the case, we do not intend to offer detailed comments on the proposals, and feel that to do so would only distract all parties from our 2006 challenge.


I did want to restate that we continue to be willing to engage in discussions and act on proposals to improve the cleanup at Fernald through inter-agency technical discussions and collaboration with stakeholders. For example, the Fernald Citizens Advisory Board has agreed to consider the question about what is the appropriate long term infrastructure to leave in place to treat contaminated ground water and leachate. While we have stated that not providing treatment is unacceptable, there may be infrastructure changes that would be acceptable. We see discussions on this issue as a worthwhile investment that could again yield a significant improvement to the Fernald cleanup. I do need to mention that the continuing backdrop of RBES proposals, especially those related to ground water treatment, could hamper these discussions. However, this type of collaborative approach between DOE, regulators and stakeholders is the way we have discussed potential changes to the Fernald cleanup in the past and this approach has served everyone well.

I am open to working toward improved communication and am agreeable to your idea of a bi-weekly conference call. In those discussions, I will continue to underscore the long history of successful, collaborative decision-making that has occurred at Fernald. With the

Robert Warther, Manager
U.S. DOE Ohio Field Office
January 6, 2004
Page 3

perspective of over 15 years of involvement at this site, I know only too well the challenge of reaching implementable decisions and the level of trust and communication that is needed for such achievement. Our goal will be to continue to work within such a framework.

Sincerely,


Thomas A. Winston, P.E.
Chief, Southwest District Office

TAW/bjc

cc: Jessie H. Roberson, EM-1
Michael Owen, LM-1
William Muno, USEPA
James Woolford, USEPA
James C. Bierer, FCAB
Graham Mitchell, OEPA
Tom Schneider, OFFO



Department of Energy

Ohio Field Office
175 Tri County Parkway
Springdale, Ohio 45246

JAN 23 2004

Tom Winston, Chief
Ohio Environmental Protection Agency
Southwest District Office
401 E. Fifth Street
Dayton, Ohio 45402

OH-0184-04

Dear Mr. Winston:

I very much appreciate your January 6th response to my letter concerning the cleanup at the Fernald site, and your comments regarding the progress that has taken place at Fernald. I believe Fluor Fernald deserves a large part of the credit for the progress being demonstrated. Since your last site visit in August 2003, Fluor has performed very well. They finished the year on track or ahead of all waste disposal goals, and safety performance has improved markedly since your visit. The injury rate as measured by the OSHA recordable case rate is about one-half what it was two years ago, and nearly an order of magnitude better than industry standards. The Silos project continues to be on the critical path for closure and, while not as far along as we would like, good progress continues. Fluor is in the process of completing systems testing for Silo 3 prior to startup of those operations.

I appreciate the willingness of you, and others, to engage in discussions concerning potential infrastructure changes regarding Fernald groundwater treatment. As discussed in our recent phone conversation, there may be an avenue to remove this topic from the backdrop of the Risk Based End State (RBES) process. I look forward to working collaboratively with your agency, Federal regulators, the Fernald Citizens Advisory Board (FCAB), and other interested stakeholders to further refine that concept into yet another step toward significant improvement to the Fernald cleanup.

Toward that end, I believe you and I should lead an effort to re-establish communications on a variety of important topics at Fernald. In so doing, I am not proposing to circumvent any other organizations with interests in the Fernald mission. Rather, I envision such collaborative discussions as being an important initial effort toward identifying an agreed upon framework for moving forward and addressing these topics.

As a first step, I propose we mutually develop a topical agenda, convene a "summit" meeting of key personnel from appropriate organizations, and outline a path forward for achievement of implementable decisions for both the Fernald and Mound Closure Projects. In short, I want to reach clear agreement on the specific process to be used in addressing these issues, and I want this process to be inclusive, participatory and public. Once that process is agreed upon, our staffs will have a clear roadmap to utilize, and can then focus on technical issues and their ultimate resolution. You and I, and others as appropriate, would act as a "steering committee" to remove any obstacles to progress and keep the focus on issue resolution.



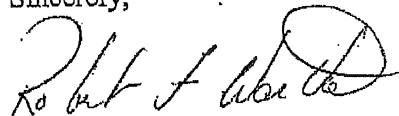
Tom Winston

-2-

JAN 23 2004

I look forward to your views on this proposal, and trust that it meets with your approval.
I welcome any other suggestions you may have to make this effort more successful.
Please call me at your earliest convenience to discuss this matter further.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert F. Warther".

Robert F. Warther
Manager

cc:
See Attached

cc:

Jessie H. Roberson, EM-1

Rick Dearborn, CI

Steve Chabot, House of Representatives (Local)

David Hobson, House of Representatives (Local)

Rob Portman, House of Representatives (Local)

Michael Turner, House of Representatives (Local)

James Bierer, FCAB

Mayor Dick Church, City of Miamisburg

Sharon Cowdrey, MESH

Lisa Crawford, FRESH

Mike Grauwelman, MMCIC

John Weithofer, City of Miamisburg

Margaret Marks, OH/MCP

Bill Taylor, OH/FCP

Dewain Eckman, OH/MCP

Johnny Reising, OH/FCP

Gary Stegner, OH/FCP



December 3, 2003

The Honorable Jessie Hill Roberson
Assistant Secretary for Environment Management
Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585-0104

Chair
James C. Bierer

Vice Chair
Lisa Crawford

Members
M. Kathryn Brown
Sandy Butterfield
Marvin W. Clawson
Lisa Crawford
Stephen P. Depoe
Louis Doll
Pamela Dunn
Jane Harper
Robert G. Tabor
Gene E. Willeke

Ex Officio Members
L. French Bell
Gene Jablonowski
William Taylor
Graham Mitchell

Support Staff
The Perspectives Group

Dear Ms. Roberson:

We are writing to ask that you relieve Fernald of the obligation to continue with Risk Based End States (RBES) activities at the Fernald site. The RBES policy recognizes that it might not apply to all sites, and we strongly believe that it should not apply to Fernald. Our decisions at Fernald have been based on a risk-based end state and we are so far along in implementing these decisions that we believe that the most prudent course is to allow us to return our full focus to a responsible and safe cleanup.

In general, the FCAB supports the idea of risk-based end use planning. In fact, we embraced this planning ten years ago when we provided the DOE with recommendations regarding the future use and specific cleanup levels for the site. Our July 1995 recommendations were based on detailed and exhaustive deliberation of land uses and risk levels. We ultimately decided that it was in the best interests of the country that Fernald take a balanced approach to cleanup based on specific land uses, risk levels, and disposal locations. This was a far cry from the cleanup to background that most of the community had been insisting upon up to that time. Our recommendations, which were adopted in full by DOE and its regulators and resulted in the following:

- Selecting on-site disposal for 77 percent of Fernald's waste volume, and recommending the construction of an on-site disposal facility, greatly reducing costs of disposal and the risk of waste transport
- Basing on-site soil cleanup levels on an undeveloped park end state and what was necessary to protect the Great Miami Aquifer, a sole source drinking water aquifer
- Setting off-site risk levels at 10^{-5} , which eliminated all off-site excavation of the 11 square miles of land that had been contaminated by the Fernald site and saving over \$4 billion
- Allowing extensive on-site excavation of contaminated soils and cell liner material without backfilling or the importation of expensive topsoil
- Recommending that all cleanup be accelerated to achieve completion within 10 years, saving over \$2 billion from the existing estimates.

As can be seen from this list, the Fernald community not only understands risk-based end use planning, we did it before any of the other sites in the DOE complex were even getting started. Our five final RODs are almost a decade old, and implementation of Fernald cleanup is about 70 percent complete. These RODs were the result of comprehensive dialogue and debate and are based on the FCAB's 1995 recommendations. Every decision was carefully considered. While most require DOE to do far less than return the site to its pre-Cold War condition, some clearly go beyond the legal minimum. This was seen as a reasonable tradeoff to the billions of dollars of savings and the siting of a 100-acre radioactive waste disposal

Ms. Jessie Hill Roberson
December 3, 2003

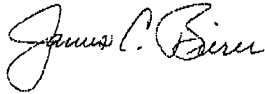
facility in the middle of a residential community and on top of a sole source drinking water aquifer. To suggest now, as the current RBES document does, that the community and regulators should provide DOE with additional concessions and accept a higher risk without any compensation does not make sense.

To ask the site to revisit these decisions at this time is not only harmful to the careful balance of interests represented by the site's cleanup decisions, it is causing a serious waste of resources and diverting important attention from our cleanup mission. The site has already spent hundreds of senior manhours and \$70,000 in subcontractor costs on the RBES exercise. Thus far, implementation of the RBES policy at Fernald has further strained already damaged relationships with the public and regulators. As was clearly demonstrated in the public meeting of November 18, any of the RBES recommendations that return to Fernald from this process will be soundly rejected by both the public and regulators and result in even greater use of time and resources. In addition, the time it would take to approve and implement any of these decisions does not appear to make sense within the confines of the target closure date of December 2006.

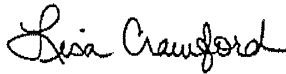
For the past ten years, the Fernald site has been recognized as a model of stakeholder participation and collaborative decision-making. We gained this reputation because a lot of people worked extremely hard to do things the right way. This approach has worked for a long time and has resulted in a site that is very near completion with strong stakeholder and regulator support. As part of that process, we have dealt with many changes that were brought about through need and innovation. We did this with foresight, detailed technical evaluation and full participation. The RBES process has not followed this pattern.

The RBES policy recognizes that it might not apply to all sites, and certainly it is not applicable to Fernald. In the best interests of the site and its stakeholders, we are requesting at this time that you relieve Fernald of the obligation to continue with RBES and allow us to return our full focus to a responsible and safe cleanup. We urge that you act quickly before additional expenses are incurred.

Sincerely,



James C. Bierer
FCAB Chair



Lisa Crawford
FCAB Vice-Chair

cc:
Senator Mike DeWine
Senator George Voinovich
Representative John Boehner
Representative Steve Chabot
Representative David Hobson
Representative Rob Portman
SSAB Chairs
Bob Warther



Department of Energy

Ohio Field Office
175 Tri County Parkway
Springdale, Ohio 45246

DEC 15 2003

Copy to
Don L
John S
12/30/03
SRB
he

Mr. Todd Portune
Board of Commissioners
County Administration Building
138 E. Court Street, Room 603
Cincinnati, Ohio 45202

OH-0129-04

FILE: 2003 DEC 17 A 10:14
OG 12-08-03
FERNALD

Dear Mr. Portune.

This letter is in response to your telephone call to me last Friday, December 5, 2003. It is my understanding that your concern centers on the local press coverage that implied the Department of Energy (DOE) was unilaterally modifying existing Records of Decision (ROD) relating to the clean up of the Fernald Closure Project (FCP).

As I stated during that call, DOE has initiated a complex-wide initiative to prepare Risk Based End State (RBES) Vision documents that ensure each closure project's cleanup effort is driven by clearly defined, risk-based end states. This initiative is, in fact, a more formal implementation of an initiative started by the DOE in December 2002. As we discussed, the Fernald Closure Project has prepared a draft document that defines all technically supportable, risk-based opportunities for consideration. All recommendations fully comply with federal and state regulations. This document represents the beginning of a process that has, and will continue to involve the public and the regulators. The DOE RBES initiative (which includes the comprehensive ground water strategy) cannot unilaterally impose changes to the Fernald cleanup waste acceptance criteria. Should any changes be proposed that would modify the Fernald cleanup, DOE must follow the nation's environmental laws and regulations and the due process defined by those laws.

As we assess the miscommunication surrounding the RBES initiative, we are once again preparing focused, intense communication plans to reach all involved in the Fernald cleanup. To that end, I would like to schedule a briefing for you and the other commissioners to clearly define the approach we are using.



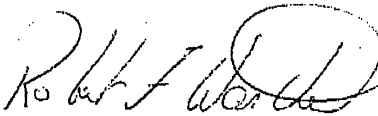
Mr. Todd Portune

-2-

DEC 15 2003

I have assigned a new Director to the Fernald Closure Project, William J. Taylor, who will call you in the next few days to arrange a time and place for the informational briefing. Should you have any further questions, please feel free to call me at (513) 246-0018 or Mr. Taylor at (513) 648-3101.

Sincerely,



Robert F. Warther
Manager

cc:

Jessie H. Roberson, EM-1
William Muno, USEPA
Tom Winston, OEPA
J. S. Dowlin, Hamilton County,
Board of Commissioners
P. Heimlich, Hamilton County,
Board of Commissioners



Department of Energy
Ohio Field Office
Fernald Environmental Management Project
P. O. Box 538705
Cincinnati, Ohio 45253-8705
(513) 648-3155



January 9, 2004

DOE-0098-04

Distribution:

RISK BASED END STATE VISION

Since December 2002, the Department of Energy (DOE) has undertaken a complex-wide discussion and interaction with Federal and State regulators and other interested stakeholders pertaining to the Risk Based End States (RBES) process. DOE Policy 455.1, "Use of Risk Based End States", was issued in July 2003. For Fernald, within the jurisdiction of the Ohio Field Office (OH), seven formal and various informal interactions, including public meetings, have been held in an attempt to obtain public input on site Draft RBES Vision process. We have received initial written comments from the U. S. Environmental Protection Agency (U. S. EPA), the Ohio Environmental Project Agency (OEPA), and the Fernald Citizen Advisory Board (FCAB). Informal verbal comments have been received from the Fernald Residents for Environment, Safety and Health (FRESH), and the Public. Congressional interest has also been demonstrated. All such interactions are integral to the rigor and intent of the RBES process. We are particularly interested in receiving technical comments related to regulatory compliance and risk aspects of the proposed RBES alternatives contained in these draft documents.

The RBES is not a decision document, and DOE recognizes that many of the alternatives being evaluated would require changes to existing regulatory agreements. If DOE ultimately decides to seek changes to current compliance agreements, decisions or requirements, such changes must be made in accordance with applicable requirements and procedures.

The Assistant Secretary for Environmental Management (EM-1) has provided an extension of the submittal date for draft RBES Vision documents until February 1, 2004, and final RBES Vision documents until March 30, 2004. In order to allow the Fernald Closure Project (FCP) to appropriately consider all public comments in their submittals, I am once again soliciting your input on these documents. Accordingly, please provide any major specific comments no later than January 20, 2004, and any detailed technical comments no later than March 15, 2004. Our intent is to attach all comments received as part of the FCP RBES Vision document submittals to DOE HQ. We will address these comments, as appropriate, including the potential modification or elimination of alternatives included in the documents, and attempt to resolve all comments received.

In order to provide maximum availability for review and comment, the OH webpage (www.ohio.doe.gov/RBES.asp) contains links to the current versions of the OH sites Draft RBES Vision documents including the FCP. In addition, a photocopy of the current version of the FCP Draft RBES Vision document is enclosed. We anticipate submitting a revised FCP Draft RBES Vision document by February 1, 2004 and the final by March 30, 2004. These updated versions will be placed on the OH webpage.

If you have any questions regarding this matter, please contact me at 513-648-3101.

Sincerely,


William J. Taylor
Director

Enclosure: As Stated

cc w/o enclosure:

R. Warther, DOE-OH
J. Craig, DOE-OH
G. Griffiths, DOE-OH
S. Smiley, DOE-OH
D. White, DOE-OH
B. Taylor, DOE-FCP
D. Kozlowski, DOE-FCP
J. Reising, DOE-FCP
G. Stegner, DOE-FCP

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Cincinnati, Ohio 45230

Lou Doll
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Cincinnati, Ohio 45248

January 12, 2004

Mr. Gary Stegner Public Affairs
U.S. Department of Energy
Fernald Facility
P.O Box 5387055
Cincinnati, OH 445253-8705

Subject: Comments to the Risk Based End States of Fernald facility.

Dear Mr. Gary Stegner,

NO changes in groundwater discharge requirements.
NO to ROD amendments

This RBES is a cost driven technical vision with selected alternatives that will impact ground water remedial strategy alternatives. Having results of minimal protection of the Human health, environment and an economic risk to the community. The economic risk is caused by a real or perceived risk to human health and environment. The economic value of the river to the surrounding communities would be limited.

DOE is turning its back on the second important part of the cleanup project the Aquifer, and groundwater. People living near the contaminated south plume still use private wells.

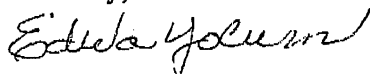
The Great Miami Aquifer is part of the life blood of the earth. The aquifer must be cleaned to the standard 30 ppb. DOE must continue treating contaminated water before released into the Great Miami River. NO reason to change discharge requirements. I suggest that DOE look into constructing a smaller groundwater treatment plant that will meet the current discharge requirements. I believe this alternative would not call for a ROD amendment.

The leachate from the OSDF cells with temporary caps must be treated.

The community sees risk as reality and will live with the assumptions and uncertainties of the technology used. Risk is also trust. In 1990 involved stakeholders worked towards an END STATE using a balance approach resulting in an OSDF over the Great Miami Aquifer and saving U.S. DOE billion in clean up costs.

In 1996 the stakeholders, Contractor and DOE spent many hour attending meetings developing the "end state" of the site. Therefore I believe the recent RBES activities should be discontinued at the Fernald facility.

Sincerely,



Edwa Yocum
9860 Hamilton Cleves Pk.
Crosby Townshp.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SR-6J

REPLY TO THE ATTENTION OF.

JAN 20 2004

Mr. Robert Warther
United States Department of Energy
Ohio Field Office-Springdale
175 Tri-County Parkway
Cincinnati, Ohio 45246

RE: RBES: Fernald and Mound

Dear Mr. Warther:

The United States Environmental Protection Agency has reviewed the United States Department of Energy (U.S. DOE) January 9, 2004, letters requesting comments on the Risk-Based End State vision (RBES) document for the Mound site and the RBES vision document for the Fernald site. U.S. EPA understands the need for the Sites to proceed with the RBES process, as it is required by a U.S. DOE policy issued in July 2003.

On November 26, 2003, I submitted a letter to you expressing U.S. EPA's position on the RBES for the Fernald site. Since that time there have been several discussions between U.S. DOE and U.S. EPA regarding the RBES document and process for the Fernald site. However, U.S. EPA's position has not changed, as U.S. EPA does not support any of the proposed items in the RBES vision document. Tremendous progress has been made at the Fernald site, and the path forward to closure of this site is clear. 2004 represents the largest and most complicated construction season, to date, for the Fernald site. U.S. EPA would like to continue to assist U.S. DOE in meeting the 2006 site closure date, and believes it is best that all resources are focused on achieving that goal rather than the RBES process.

The U.S. DOE Mound site is in a similar position as that of Fernald in that much progress has been made at the site, and it is also on track for a 2006 closure. Also, the city of Miamisburg is involved in acquiring much of the property, which impacts future land use decisions. Although no remedy decisions or changes can be made without U.S. EPA approval, there is a concern that the RBES document for the Mound site may be pre-judging remedies and indirectly circumventing the CERCLA process. The recommendations, particularly for groundwater, suggest Monitored Natural Attenuation (MNA) as a preferred path forward. We believe that these recommendations are premature at this point. U.S. EPA can not support MNA at the Mound site without further analysis pursuant to the CERCLA process. Further, in regards to Operable Unit 1, U.S. EPA wants the technical team to complete its analysis before any future decisions are made. The RBES appears to be presenting remedy decisions before work is

completed. Therefore, U.S. EPA does not support the recommendations presented in the RBES document for Mound. U.S. EPA requests that all efforts be focused on jointly achieving the 2006 closure date and following the CERCLA process.

If you have any questions regarding this matter, please contact James Saric of my staff at (312) 886-0992.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary M. Schafer". The signature is fluid and cursive, with the first name "Gary" being more prominent.

Gary Schafer
Chief
Federal Facilities Section
SFD Remedial Response Branch #2

cc: Jim Woolford, U.S. EPA-FFRRO
Jessie Roberson, U.S. DOE
Johnny Reising, U.S. DOE-Fernald
Tom Schneider, OEPA-SWDO
Graham Mitchell, OEPA-SWDO
Brian Nickel, OEPA-SWDO
Margaret L. Marks, U.S. DOE-Mound
William J. Taylor, U.S. DOE-Fernald



Department of Energy

Ohio Field Office
175 Tri County Parkway
Springdale, Ohio 45246

JAN 23 2004

Mr. Gary Shafer
Chief, Federal Facilities Section
SFD Remedial Response Branch #2
USEPA Region 5
77 West Jackson Boulevard
Chicago, IL 60604-3590

OH-0183-04

Thank you for your letter of January 20, 2004, concerning the Draft RBES Vision Documents for the Mound and Fernald Closure Projects. The Department will continue to involve USEPA, Ohio EPA and the public as RBES alternatives are investigated and evaluated.

As you are aware, the Ohio Field Office is required to continue to proceed with the RBES process. A final RBES document is scheduled for submittal to HQ by 3/31/04. I am committed to continue to work with regulators and stakeholders from both Mound and Fernald in evaluating reasonable risk-based alternatives and finalizing the document. As outlined in our letter of January 9, 2004 we would like any technical comments USEPA may have concerning the RBES alternatives by March 15, 2004. You have made your program position very clear. However, we have not received any technical comments, and we believe that each of the proposed RBES alternatives are technically sound and defensible in addition to being environmentally protective. If USEPA wishes not to provide any additional technical comments we will continue to include you on the distribution for all applicable RBES documents and information.

Also, as I have stated to the regulators and to the public, the RBES documents are not decision-making documents. Any change to a Record of Decision, or other approved regulatory document would require the department to follow the applicable regulatory process and obtain the necessary regulatory approvals. At this time in the RBES process, the Department has not proposed any changes, pre-judged any of the remedies, nor developed a preferred path forward.

I'll continue to work with you and your staff as we accelerate cleanup and reduce risk, and we work toward closure in 2006.

Sincerely,

Robert F. Warther
Manager

cc:
See Attached



cc:

Jessie H. Roberson, EM-1

Rick Dearborn, CI

Steve Chabot, House of Representatives (Local)

David Hobson, House of Representatives (Local)

Rob Portman, House of Representatives (Local)

Michael Turner, House of Representatives (Local)

James Bierer, FCAB

Mayor Dick Church, City of Miamisburg

Sharon Cowdrey, MESH

Lisa Crawford, FRESH

Mike Grauwelman, MMCIC

John Weithofer, City of Miamisburg

Margaret Marks, OH/MCP

Bill Taylor, OH/FCP

Dewain Eckman, OH/MCP

Johnny Reising, OH/FCP

Gary Stegner, OH/FCP

F.R.E.S.H., Inc.

Fernald Residents for Environmental Safety and Health

January 23, 2004

Gary Stegner, Public Affairs
USDOE, Fernald Office
P.O. Box 538704
Cincinnati, Ohio 45253

Sent Via Fax

Dear Mr. Stegner:

Below are FRESH Inc.'s comments on the FCP - RBES Vision document. As you are aware, many FRESH members have followed the RBES process through these last few months. It is our opinion that there has been minimal stakeholder participation and the comment periods have been short and have fallen over three major holidays - Thanksgiving, Christmas & New Year's! In addition there was only one public meeting regarding RBES.

FRESH believes that the Fernald Site is too far along in the cleanup process to go through any changes at this time. Our Records of Decision already reflect what "we" have all agreed to. If at any time DOE wants to change anything, then we believe the ROD or ESD process is the appropriate avenue to go through.

We do not want to change anything. We expect DOE to honor its legally binding agreements. If DOE chooses to alter these agreements, we will explore other options.

SPECIFIC COMMENTS:

Executive Summary Section

Page 1 - Paragraph 7 - RBES was not congressionally mandated. This is an untrue statement.

Page 2 - Paragraphs 4 & 6 - Both of these paragraphs inaccurately portrays the reality of the situation. They should be removed from the document

Hazard Area 1 - NO!!! - The WAC is it - no averaging will be done!!
- All leachate will be tested & treated as agreed upon.
- Remains as is per signed ROD & Agreements

Hazard Area 2 - NO!!! - All must remain as is per signed ROD & Agreements
- FRL's will remain the same
- No CPRG's

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Hazard Area 3 - NO!!! - All must remain as is per signed ROD & Agreements

- Groundwater Treatment remains the same
- No changes in discharge numbers

Hazard Area 4 - NO!!! - All must remain as is per signed ROD & Agreements

- New and old outfall lines, dams & structures must be removed as per the ROD

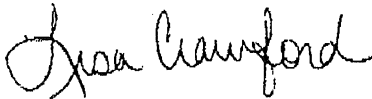
We believe there is no benefit to us or the Fernald Site with regard to any of these RBES changes. Cost should not be the driving factor. These changes would result in a dirtier clean up!!! Re-opening anything at this point in time would be like opening "Pandora's box". DOE should live up to the agreements which were made with extensive public participation.

We have worked long and hard to come to agree on the FCP Clean Up decisions. We should not have to change that now. We do not accept the RBES and will not agree to it. We stand behind our Records of Decisions (ROD's) and the legally binding clean up agreement made with our regulators.

We are in agreement with the comments that have been provided by the U.S.EPA, the Ohio EPA, and the Fernald Citizen's Advisory Board these past few weeks.

Please feel free to contact me at (513)738-1688 if you have questions.

Sincerely,



Lisa Crawford
President
F.R.E.S.H., Inc.

LC:eac

cc's: files

Jim Saric, USEPA
Tom Winston, OEPA
Senator George Voinovich's Office
Senator Mike Dewine's Office
Rep. Rob Portman's Office
Rep. Steve Chabot's Office
Jessie Roberson, DOE/HDQ
Robert Warther, DOE/OFO